

SEALEDFILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AO 102 (01/09) Application for a Tracking Warrant

APR 19 2019

UNITED STATES DISTRICT COURT

D. MARK JONES, CLERK

for the
District of Utah

DEPUTY CLERK

In the Matter of the Tracking of
(Identify the person to be tracked or describe
the object or property to be used for tracking)a gray 2011 Chevy Silverado, VIN
1GCRKSE38BZ408678, Utah License Plate C299EG

Case No.

2:19mj293-DBP

APPLICATION FOR A TRACKING WARRANT

I, a federal law enforcement officer or attorney for the government, have reason to believe that the person, property, or object described above has been and likely will continue to be involved in one or more violations of 18 U.S.C. § 1855. Therefore, in furtherance of a criminal investigation, I request authority to install and use a tracking device or use the tracking capabilities of the property or object described above to determine location. The application is based on the facts set forth on the attached sheet.

- ☒ The person, property, or object is located in this district.
- ☐ The person, property, or object is not now located in this district, but will be at the time of execution.
- ☐ The activity in this district relates to domestic or international terrorism.
- ☐ Other:

The tracking will likely reveal these bases for the warrant under Fed. R. Crim. P. 41(c): (check one or more)

- ☒ evidence of a crime;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☐ a person to be arrested or a person who is unlawfully restrained.

☒ I further request, for purposes of installing, maintaining or removing the tracking device, authority to enter the following vehicle or private property, or both:
a gray 2011 Chevy Silverado, VIN 1GCRKSE38BZ408678, Utah License Plate C299EG

☒ Delayed notice of 90 days (give exact ending date if more than 30 days: 07/17/2019) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

Edwin R. Outlaw, Special Agent

Applicant's printed name and title

Sworn to before me and signed in my presence.

Date: 04/19/2019

City and state: Salt Lake City, Utah

Judge's signature

DUSTIN B. PEAD, U.S. Magistrate Judge

Printed name and title

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THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

IN THE MATTER OF THE TRACKING OF
a gray 2011 Chevy Silverado, VIN
1GCRKSE38BZ408678, Utah License Plate
C299EG

Case No.

SEALED AFFIDAVIT IN SUPPORT OF
TRACKING WARRANT

I, Edwin R. Outlaw, having being duly sworn, hereby depose and state:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent currently employed by the United States Forest Service (USFS). I have been a Special Agent for approximately 15 years. I have been employed as a Special Agent for the Forest Service since June 2017. Prior to that, I was a Special Agent for the U.S. Drug Enforcement Administration. I am a "law enforcement officer" "of the United States" within the meaning of 18 U.S.C. § 2510(7) who is empowered by law to conduct investigations of, and to initiate arrests for, various offenses involving national forest lands, including Title 18 offenses for arson and the destruction of government property. I have received specialized training by the USFS in identifying the origin and cause of wildfires along with the investigation of complex wildland arson cases. Based on my training and experience, as well as the experience of other

law enforcement agents with whom I have consulted, I know the following information regarding wildland arson:

- a. Arsonists are suspected of setting an average of 35 fires before being apprehended.
- b. Individuals often work alone using unsophisticated ignition methods.
- c. Individuals are careful to conceal their activity to avoid detection.
- d. Individuals often flee the scene and leave little obvious evidence.

2. I am involved in an on-going criminal investigation of LAMONT C ELLETT for violations of 18 U.S.C. § 1855 and 18 U.S.C. § 81. The federal investigation commenced on approximately April 4, 2013. Since then, I have learned that ELLETT is suspected of starting 15 fires in areas of the Fishlake National Forest, Fremont River Ranger District in Sevier County and Wayne County, Utah. ELLETT has possessed and driven several vehicles during this investigation in the commission of acts of arson. He is currently driving the vehicle identified with more particularity in paragraph 5.

3. The facts of this affidavit come from my own investigation, including my personal observations, my training and experience, and information obtained from other agents, police officers, and witnesses, including their oral and written reports. This affidavit is intended to show that there is sufficient probable cause for the requested tracking warrant for the TARGET VEHICLE, and I have not included details of every aspect of this investigation and the affidavit does not set forth all of my knowledge about this matter.

PURPOSE OF AFFIDAVIT

4. This affidavit is written to support an application for a Tracking Warrant that authorizes the placement and monitoring of a covert, non-permanent, global positioning device, or mobile

tracking device ("MTD"), on the Target Vehicle as identified in paragraph 5. Installation and monitoring of the MTD will lead to evidence of the criminal activity described below, as well as to the identification of individuals who are engaged in the commission of those, and other related crimes.

5. There is probable cause to believe that a gray 2011 Chevy Silverado, VIN 1GCRKSE38BZ408678, Utah License Plate C299EG, has been and will continue to be utilized to facilitate violations of 18 U.S.C. § 1855, Timber set afire, and 18 U.S.C. § 81, Arson within special maritime and territorial jurisdiction.

6. I believe that the placement of the MTD in or on the Target Vehicle and monitoring of the MTD will lead to evidence, fruits, and instrumentalities of the aforementioned crimes, as well as to the identification of individuals who are engaged in the commission of those and other related crimes.

PROBABLE CAUSE

7. ELLETT is suspected of starting over 15 fires primarily on USFS land in Wayne County and Sevier County, Utah dating back to 2012. The fires share common characteristics to include patterns of location, ignition methods and timeframes. ELLETT has been observed by witnesses or captured on surveillance camera footage in the immediate area of at least five of these fires. During four of these fires, ELLETT was observed driving the TARGET VEHICLE and on one occasion, a maroon GMC pickup truck registered to ELLETT.

8. On April 4, 2013, at approximately 5:48 p.m., a fire was reported at Forsyth Reservoir near a boat ramp accessed by Forsyth Reservoir Road in Sevier County, Utah. The fire burned approximately 1/10th of an acre and destroyed a USFS bathroom facility valued at \$40,000. Witness Trevor Taylor reported seeing ELLETT driving a gray and maroon GMC pickup at approximately 4:15 p.m. that day on State Road 72 near mile marker 8. The entrance to the

Forsyth Reservoir access where the fire took place is located by mile marker 12. At approximately 5:00 p.m., Taylor noticed smoke coming from the area of the boat ramp and observed the bathroom on fire through binoculars. During the time of this fire, ELLETT was the registered owner of a maroon GMC pickup truck, Utah license plate 3717CV, listed at 180 North Main Street, Loa, Utah. The location of the fire was approximately 14 miles from ELLETT's residence. The fire was determined to have been human caused. No other suspects were identified.

9. On November 28, 2017, at approximately 4:40 p.m., a fire was reported on Forsyth Reservoir at the same location described in paragraph 8 near the boat ramp. The fire burned approximately 1/4th of an acre. Witness Jeffrey Draper reported spotting a brush fire by the reservoir while traveling northbound on State Road 72. At approximately 4:30 p.m., Draper turned onto Forsyth Road heading toward the origin of the smoke and passed a gray Chevy pickup truck, license plate C299EG (TARGET VEHICLE) heading the other direction away from the fire. Draper then called dispatch to report the fire and the TARGET VEHICLE. The fire was determined to have been human caused. No other suspects were identified.

10. On March 23, 2019, at approximately 12:30 p.m., a suspicious fire occurred on USFS land at Mill Meadow Reservoir on the north side of UM Creek tributary which flows into the reservoir. Mill Meadow Reservoir is located five miles from the Forsyth Reservoir fires and 13 miles from ELLETT's residence. The fire burned approximately 1/10th of an acre and was determined to be human caused. No suspects were identified at the location prior to the fire, however, it had characteristics similar to other fires believed to be set by ELLETT in the past.

11. On April 11, 2019, USFS Law Enforcement Officer David Defriez placed surveillance cameras along two roads accessing Forsyth Reservoir and Mill Meadow Reservoir.

12. On April 12, 2019, while on patrol at Forsyth Reservoir, LEO Defriez found a burned area approximately 1/10th of an acre in size along Forsyth Road, also known as FR1733, near the boat ramp. The fire was no longer active but appeared to have recently occurred. As a result, LEO Defriez reviewed photos from the camera placed along Forsyth Road leading to the boat ramp. On April 12, 2019, at approximately 12:06 p.m. the TARGET VEHICLE was captured in photos driving on Forsyth Road toward the boat ramp and location of the burn area. The photos clearly show ELLETT's truck and license plate number. At approximately 12:24 p.m., photos captured the TARGET VEHICLE heading the other direction with smoke visible in the background and ELLETT in the driver's seat. The fire was determined to be human caused. No other suspects were identified.

13. Tidwell Pond Road, also known as Forest Road 018, is the only other vehicle access route to the area of the suspicious fires on Forsyth Reservoir. It is a rough dirt road connected to State Road 72 through rugged terrain approximately eight miles away.

14. On April 15, 2019, at approximately 11:28 a.m., a fire was reported in the same area at Forsyth Reservoir. Two separate fires were subsequently located along Forsyth Road by first responders. LEO Defriez reviewed photos from the camera in place at the same position. A very small fire along Forsyth Road close to the turn off from State Road 72 was believed to have been the one initially reported at 11:28 a.m. The camera captured the TARGET VEHICLE entering at 10:22 a.m. and departing at 10:29 a.m. The camera captured the TARGET VEHICLE entering a second time at 10:36 a.m. and departing at 10:37 a.m. Smoke is not visible in the departing shots of these photos. It's believed ELLETT started the first fire around this timeframe, but due to the camera's orientation and the location of the smaller fire, the camera didn't capture any smoke associated with it. The TARGET VEHICLE was captured on camera passing a third time at 11:52 a.m. and then departing with smoke visible in the background at

11:58 p.m. ELLETT can be seen looking in the direction of the fire. This is believed to have been the second and larger fire which burned an area approximately 1/10th of an acre. All of the photos show ELLETT's truck and license plate number along with ELLETT driving the vehicle. Additionally, at approximately 12:07 p.m., while enroute to the scene, Loa Fire Chief Michael Thompson observed ELLETT in the TARGET VEHICLE departing the area on Forsyth Road. The fires were determined to be human caused. No other suspects were identified.

15. On April 15, 2019, while investigating the two fires at Forsyth Reservoir described in paragraph 14, LEO Defriez found another burned area approximately 1/10th of an acre in size along Forsyth Road near the boat ramp. The fire was no longer active but appeared to have recently occurred. Upon review of the camera, LEO Defriez found photos showing that on April 13, 2019, at approximately 11:53 a.m. the TARGET VEHICLE was captured driving on Forsyth Road toward the boat ramp and location of the burn area. The photos showed ELLETT's truck and license plate number. At approximately 12:02 p.m., photos captured the TARGET VEHICLE heading the other direction with smoke visible in the background and ELLETT in the driver's seat. ELLETT can be seen looking in the direction of the fire. The fire was determined to be human caused. No other suspects were identified.

16. On April 18, 2019, at approximately 2:13 p.m. SA Outlaw observed the TARGET VEHICLE at ELLETT's residence at 180 North Main Street, Loa, Utah. The vehicle was parked in a carport next the house accessed by West 200 North Street. SA Outlaw also observed ELLETT sitting on the front porch of the residence.

17. Based on the foregoing, and given the role ELLETT plays in starting wildland arson fires on USFS property, there is probable cause to believe that the TARGET VEHICLE has been and will continue to be utilized to facilitate violations of 18 U.S.C. § 81, Timber set afire, and 18 U.S.C. § 81, Arson within special maritime and territorial jurisdiction.

18. Based on information discovered in the investigation, including surveillance, I know that the TARGET VEHICLE is presently within the State of Utah.

AUTHORIZATION REQUEST

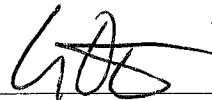
19. Based on the foregoing, I request that the court issue the proposed tracking warrant, pursuant to Rule 41, Federal Rules of Criminal Procedure, and 18 U.S.C. § 3117, and that the court order authorize members of the U.S. Forest Service or their authorized representatives, including but not limited to other law enforcement officers, agents and technicians assisting in the above-described investigation, to (a) install a tracking device on the TARGET VEHICLE within the District of Utah within 10 days of the issuance of the proposed warrant; (b) maintain, repair, and/or replace the tracking device as necessary, and to remove the tracking device from the Target Vehicle after the use of the tracking has ended; (c) install, maintain, and remove the tracking device during both daytime and nighttime hours; and (d) monitor the tracking device for a period of 45 days following the issuance of the tracking warrant, including when the tracking device is inside private garages and other locations not open to the public or visual surveillance, both with and outside the District of Utah.

20. In accordance with Rule 41, Federal Rule of Criminal Procedure and 18 U.S.C. § 3103a(b), I further request that the warrant delay notification of the execution of the warrant as to the Target Vehicle for a period not to exceed 90 days after the end of the authorized period of tracking (including any extensions thereof) because there is reasonable cause to believe that providing immediate notification of the warrant during the on-going investigation would seriously jeopardize the investigation, as defined in 18 U.S.C. § 2705. Providing immediate notice would seriously jeopardize the ongoing investigation by prematurely revealing its existence and giving suspects an opportunity to flee from prosecution, destroy or tamper with evidence, intimidate potential witnesses, notify confederates, and change patterns of behavior.

21. I further request that the court seal this affidavit and the court's order except that copies of both, full or redacted, may be maintained by the United States Attorney's Office and may be served by U.S. Forest Service and other investigative and law enforcement officers of the U.S. Forest Service, federally deputized state and local law enforcement officers, and other government and contract personnel acting under the supervision of such investigative or law enforcement officers, as necessary to effectuate the warrant.

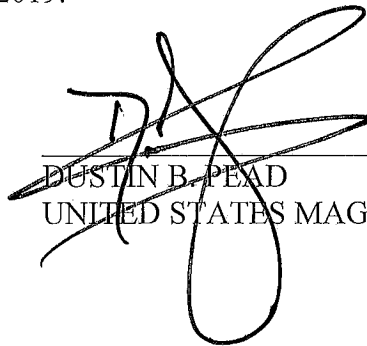
22. These documents pertain to and discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize the investigation. Sealing these documents will also better ensure the safety of agents and others.

Respectfully submitted,



Edwin R. Outlaw
Special Agent
U.S. Forest Service

Subscribed and sworn to before me on April 19, 2019.



DUSTIN B. PEARD
UNITED STATES MAGISTRATE JUDGE